

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TANIELLE SHURNEY,)	
)	
Plaintiff,)	
)	
V.)	Civil Action No. 05-196E
)	Judge Sean J. McLaughlin
)	
SCOTT ENTERPRISES, INC.;)	
TROOPER SEAN PIERCE;)	
JOHN DOE,)	
)	
Defendants.)	

DEFENDANT TROOPER SEAN PIERCE'S
PRETRIAL NARRATIVE STATEMENT

Defendant, Trooper Sean Pierce, by his attorneys, Thomas W. Corbett, Jr., Attorney General, Susan H. Malone, Chief Deputy Attorney General and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, hereby submits the following Pretrial Narrative Statement in accordance with LR. 16.1.4.

1. NARRATIVE STATEMENT OF MATERIAL FACTS

On the evening of June 25, 2004, a woman identifying herself as the plaintiff, Tanielle Shurney, telephoned the Econolodge reservation center to reserve a hotel room and five passes to Splash Lagoon for two adults and three children for July 3, 2004. The caller was informed by Econolodge reservation agent, Kristen Mooney, that a credit card was required to secure the reservation. The woman stated that she did not have a credit card. She was told that the reservations would be held until 9:00 that night. A woman who identified herself as Tanielle Shurney called back later that night and asked to speak with Kristen Mooney. The caller stated that her cousin, Tracey Smith, had agreed to put the charges on her credit card. A woman who identified herself as Tracey Smith then got

on the phone and provided Kristen Mooney with Master Card account #5449270911030937. Kristen Mooney read the number back to confirm that it was the correct number. The Master Card account was charged at that time and a hotel room and five passes to Splash Lagoon for two adults and three children in the name of Tanielle Shurney was complete.

The Master Card account used to secure the reservations was a debit account with Key Bank belonging to Tonya Traylor ("Traylor") of Streetsboro, Ohio. Traylor checks the activity on her Key Bank debit account daily on the internet. Traylor discovered on June 30, 2004 that her account was overdrawn and that several unauthorized charges, including a charge in the amount of \$198.79 to Splash Lagoon, had been deducted from her account. Traylor immediately contacted Splash Lagoon and reported that she had neither made nor authorized the use of her debit account to secure a reservation. She reported the unauthorized use of her debit card to Trooper Jon Hurley of the Streetsboro Police Department who undertook an investigation.

Trooper Hurley contacted Patty Purchase, Manager of the Reservation Center for the Econolodge and learned that the reservation had been made by Tanielle Shurney. Trooper Hurley advised Ms. Purchase that the reservation had been made with a stolen credit card and instructed her to call the Pennsylvania State Police in Erie when someone appeared to check in under the Tanielle Shurney reservation. On July 2, 2004, Trooper Hurley contacted the Pennsylvania State Police, explained the situation, and requested their assistance with the investigation. At approximately 8:00 p.m. on July 2, 2004, a woman who identified herself as Tanielle Shurney called the Econolodge and asked to speak with Kristen Mooney to verify her reservations. The woman was referred to Patty

Purchase, who was aware of the situation. The woman identified herself as Tanielle Shurney and advised Patty Purchase that the credit card used to make the reservations belonged to her cousin, Tracey Smith.

On July 3, 2004, Tanielle Shurney was among a party of three adults and four children who arrived at the Econolodge at approximately 2:00 p.m. Plaintiff went alone into the Econolodge to register. She signed for the room and passes to Splash Lagoon using the debit card account number which had been reported stolen by Traylor. She told the desk clerk that she did not have the card with her. She presented photo identification and obtained the room key and Splash Lagoon passes. The registration indicated that two adults and three children would be staying in the room. At the time, plaintiff had in her possession her own debit card and \$250.

Trooper James R. Szymanski and his trainee, Trooper Sean Pierce ("Pierce"), were called to the scene by Econolodge employees. Trooper Szymanski remained in the parking lot while Trooper Pierce conducted the investigation. Trooper Pierce interviewed the desk clerk who processed plaintiff's reservation. The desk clerk identified Tanielle Shurney as the person who made the reservation using the stolen credit card and identified Tanielle Shurney as the same person who signed for the room and passes and placed the charges on the stolen account. Trooper Pierce was provided with a copy of the receipt for the room which was signed by plaintiff using the Master Card account. He was also provided with a copy of plaintiff's Ohio driver's license. He was informed that Tanielle Shurney had made the reservation. Trooper Pierce presented the evidence to his coach, Trooper Szymanski, who determined that there was probable cause to arrest plaintiff on charges of Theft by Deception and Access Device Fraud. Trooper

Szymanski approached plaintiff, asked to see her photo identification and placed her under arrest. Plaintiff was transported to the state police barracks where she was read her Miranda rights and questioned by Trooper Pierce. She told Trooper Pierce that the reservations were made through her friend, Tracey Smith. She provided an address, but no phone number, for Tracey Smith. Trooper Pierce was not able to locate anyone by the name of Tracey Smith at the address provided. She had in her possession two photo identifications. Trooper Pierce was directed by his coach to prepare a Criminal Complaint and Affidavit of Probable Cause setting forth the factual information in support of the arrest.

Plaintiff was timely arraigned before Magisterial District Judge, Frank Abate. Magistrate Abate asked plaintiff to explain her version of what happened. Plaintiff explained to Magistrate Abate that her cousin, Tracey Smith, had made the reservation and provided the credit card information necessary to secure the reservation. After reviewing the evidence and listening to plaintiff's explanation, Magistrate Abate committed plaintiff to Erie County Prison in lieu of \$10,000 straight bail. The remaining people in plaintiff's party, including her son, checked into another hotel and spent the weekend at Splash Lagoon. Plaintiff was released on July 9, 2004 when her boyfriend posted bond.

On August 13, 2004, a preliminary hearing was held before Magisterial District Judge, James J. Dwyer of District 06-3-05. No testimony was presented. Magistrate Judge Dwyer dismissed the charges, and this action followed.

2. **DAMAGES CLAIMS**

Plaintiff has not sustained any physical or emotional injuries as a result of her arrest and incarceration. General damages are only available from the time of arrest through time of arraignment, which in this case was only several hours. She is not entitled to damages for payment of bail, since she testified under oath at her deposition that her boyfriend paid her bail and she did not pay him back.

3. **WITNESSES**

Unless otherwise indicated, the witnesses are liability only:

- a. Trooper Sean Pierce (liability and damages)
Pennsylvania State Police
Troop E – Erie Headquarters
Erie, PA
- b. Trooper James R. Szymanski (liability and damages)
Pennsylvania State Police
Troop E – Erie Headquarters
Erie, PA
- c. Patrolman Jon Hurley
Streetsboro Police Department
2080 State Route 303
Streetsboro, Ohio 44241
- d. Tonya Traylor
10039 Delores Drive, Apt. B
Streetsboro, Ohio 44241
- e. Patricia Purchase
818 Cherry Street
Erie, Pennsylvania
- f. Kristen Mooney
Splash Lagoon Reservation Center
8091 Peach Street
Erie, PA 16509

- g. Jeffrey Mona
Splash Lagoon Reservation Center
8091 Peach Street
Erie, PA 16509
- h. Parties and all witnesses identified in the pretrial narrative statements of plaintiff and defendants

4. **EXHIBITS**

- a. Records of the Pennsylvania State Police
- b. Records of the Streetsboro, Ohio Police Department
- c. Erie County Prison Inmate Summation Report and records
- d. Econolodge registration and identification records
- e. Splash Lagoon reservation center documents
- f. Deposition transcripts and exhibits
- g. Records of Keybank
- h. Plaintiff's Answers to discovery requests

5. **Unusual Legal Issues**

Defendant is not aware of any unusual legal issues. Defendants have motions for summary judgment pending which set forth the applicable legal issues.

6. **Expert Witnesses**

Defendant does not intend to call any expert witnesses at this time.

7. **Expected length of trial**

Two to three days.

Respectfully submitted,

Thomas W. Corbett, Jr.
Attorney General

BY: \s\ Susan H. Malone
SUSAN H. MALONE
Chief Deputy Attorney General
PA I.D. No. 30280

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief Litigation Section

OFFICE OF ATTORNEY GENERAL

6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

(412) 565-7680

Date: April 17, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Pretrial Statement was electronically served on all counsel of record, this 17th day of April, 2006, as follows:

A.J. Adams, Esq.
Attorney for Plaintiff
Aj4aj@aol.com

Gary D. Bax, Esq.
Attorney for Scott's Splash Lagoon, Inc.
G_Bax@msn.com

Gerald J. Hutton, Esq.
Gerald.Hutton@libertymutual.com
Attorney for Scott's Econo Inn, Inc.

By: \s\ Susan H. Malone
Susan H. Malone, Esq.
564 Forbes Avenue
Manor Complex – 6th Floor
Pittsburgh, PA 15219
412-565-7680
smalone@attorneygeneral.gov
Pa. ID 30280
Attorney for Trooper Sean Pierce